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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,610	07/23/2004	Tatsuya Kawakami	SIC-04-030	4357
29863	7590	11/03/2009		
DELAND LAW OFFICE P.O. BOX 69 KLAMATH RIVER, CA 96050-0069			EXAMINER JOHNSON, VICKY A	
			ART UNIT 3656	PAPER NUMBER
			NOTIFICATION DATE 11/03/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

bdeland1992@gmail.com

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### Office Action Summary

**Application No.**

10/710,610

**Applicant(s)**

KAWAKAMI, TATSUYA

**Examiner**

Vicky A. Johnson

**Art Unit**

3656

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41, 43, 47, 49-58, 70 and 72-94 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 41, 43, 47, 49-58 and 94 is/are allowed.
- 6) ☒ Claim(s) 1-40, 70, and 72-93 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/888)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Ose (US 5,768,945).

Ose discloses a shift control device for a bicycle transmission comprising: a mounting member (11) adapted to mount the shift control device to a bicycle; a first lever (4) operatively coupled to the mounting member wherein the first lever moves in a first plane (see Fig 2); a second lever (10) operatively coupled to the mounting member for movement in a second plane between a rest position and an operating position such that the second lever returns to the rest position after moving to the operating position; wherein the first plane is substantially parallel to the second plane (see Fig 2); a positioning unit (3) that rotates to and is maintained in a plurality of positions corresponding to gear positions of the bicycle (col. 4 lines 23-65); and a positioning member (16) that moves relative to the second lever and that is controlled by the second lever to operate the positioning unit, the first lever rotates within the first plane (see Fig 2), the second lever rotates within the second plane (see Fig 2), the positioning unit moves to the plurality of positions corresponding to gear positions of the bicycle in

response to movement of the first lever and the second lever (col. 3 lines 28-34), the positioning member maintains the positioning unit in each of the plurality of positions corresponding to gear positions of the bicycle (col. 3 line 64 – col. 4 line 11), wherein the first lever is operatively coupled to the positioning unit so that the first lever is maintained in a plurality of positions corresponding to gear positions of the bicycle transmission in addition to beginning and end positions of a range of motion of the first lever (col. 3 line 34 – col. 4 line 22), a motion limiting member (9) that limits movement of the positioning unit in response to movement of the second lever (col. 4 lines 53-55), the first lever and the second lever are coupled to the mounting member such that the first lever and the second lever are located above the bicycle handlebar when the shift control device is mounted to the bicycle handlebar (see Fig 1).

3. Claims 70, 72-78, and 80-93 are rejected under 35 U.S.C. 102(b) as being anticipated by Wu (US 5,355,745).

Wu discloses a bicycle control apparatus comprising: a mounting member (20) adapted to be mounted to a bicycle; a positioning unit (33, 32) coupled to the mounting member for moving to a plurality of positions; a positioning member (40) that maintains the positioning unit in each of the plurality of positions; wherein the positioning member moves along a first path between an engagement position (see Fig 5-1), where the positioning member engages the positioning unit, and a disengagement position (see Fig 5-2) where the positioning member is disengaged from the positioning unit; and wherein the positioning member moves along a second path that is different from the first path (see Figs 5-1 and 5-2), and wherein movement of the positioning member

along the second path includes movement other than rotation of the positioning member (see Figs 5-1 and 5-2).

***Allowable Subject Matter***

4. Claims 41, 43, 47, 49-58 and 94 are allowed.

***Response to Arguments***

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vicky A. Johnson whose telephone number is (571) 272-7106. The examiner can normally be reached on Monday-Friday (7:00a-3:30p).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vicky A. Johnson/  
Primary Examiner, Art Unit 3656